



**Department of Health and Human Services  
Office of the Commissioner  
Policy and Procedure Statement**

Policy # DHHS-12-05

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**I. SUBJECT**

Domestic Violence, Sexual Assault, and Stalking in the Workplace

**II. POLICY STATEMENT**

The Department of Health and Human Services is committed to promoting the Health and Safety of its employees. DHHS recognizes that domestic violence is a workplace issue that impacts the work environment. Staff affected by abuse may be vulnerable while at work thereby compromising the safety of employees. The effects of domestic violence can lead to decreased morale and productivity and increased absenteeism and health costs.

The purpose of this policy is to raise awareness of and to provide guidance, education and resources to employees, supervisors and managers to address domestic violence and how it affects the workplace.

**III. DEFINITIONS**

- A. **Domestic Violence:** A pattern of coercive behavior that is used by a person against family or household members to gain power and control over the other party in a relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, harm to children, economic control, destruction of personal property and animal cruelty. Domestic violence occurs between people of all racial, economic, educational and religious backgrounds. It occurs in heterosexual and same-sex relationships, between married and unmarried partners including intimate relationships, between current and former partners and between other family and household members.
- B. **Abuser, Batterer, Perpetrator:** An individual who engages in or commits domestic violence.
- C. **Survivor or People Affected by Abuse:** An individual subjected to domestic violence.

- D. **Domestic Violence Response Team/Responder:** Designated DHHS employees with specialized training to handle disclosures, referrals, and office safety planning (See attached list at [Appendix D](#)). All supervisors and managers are considered to be responders.
- E. **Workplace Safety Plan:** A strategy developed in consultation with the person affected by abuse to implement work place safety options, including, but not limited to: setting up procedures for alerting security or police; temporary relocation of the staff affected by abuse to a secure area; voluntary temporary transfer or permanent relocation to a new work site; reassignment of parking space; escort for entry to and exit from the work site; responding to telephone, fax, e-mail or mail harassment; and, keeping a photograph of the abuser or a copy of an existing court order in a confidential onsite location and providing copies to designated personnel.
- F. **In the Work Place:** When a Department of Health and Human Services employee, whether the employee is the person affected by abuse or the abuser, is on duty, is in State-owned or leased work space or is using the facilities or services of the State or is using a vehicle owned or leased by the State or its agencies, or is traveling on behalf of the State, the employee is considered "in the work place."
- G. **Mandated Reporters:** Certain individuals are required by law to report abuse or neglect of children, and abuse, neglect or exploitation of incapacitated or dependent adults. See 22M.R.S.A. subsection 4011-A; 22M.R.S.A. subsection 3477.
- H. **Sexual Assault:** An act of sexual violence whereby a party forces, coerces, or manipulates another to participate in unwanted sexual activity. This behavior may include stranger rape, date and acquaintance rape, marital or partner rape, incest, child sexual abuse, sexual contact, sexual harassment, ritual abuse, exposure and voyeurism.
- I. **Stalking:** Repeated unwanted contact between two people that directly or indirectly communicates a threat or places the victim in fear. Stalking may occur between intimate partners, acquaintances, or strangers. Stalking behaviors include but are not limited to: following a person; appearing at a person's home or place of business; making harassing phone calls; sending letters or e-mails; leaving written messages or objects; or vandalizing a person's property. In Maine, stalking is a crime and is defined more specifically in the criminal statutes in 17-A M.R.S.A. §210-A.

#### **IV. STATEMENT OF CONFIDENTIALITY**

DHHS recognizes and respects an employee's need for confidentiality and autonomy. To the extent permitted by law and unless the substance of the employee's disclosure demands otherwise, the Department will maintain the confidentiality of an employee's disclosure. Disclosures should be addressed to any Responder or appropriate Human Resource Personnel. If an employee's disclosure indicates that there exists reasonable cause to suspect abuse, neglect or exploitation of children or incapacitated or dependent adults, reporting will be mandatory as required by law. Further disclosure may be necessary if the abuser presents a threat to the safety of any person in the workplace. Whenever possible, employees will be given notice of necessary disclosures.

#### **V. RATIONALE**

Consistent with the Maine Legislature's recognition that domestic violence is a widespread problem affecting thousands of Maine families with serious consequences extending into the workplace; and with the recognition that employer policies play a critical role in supporting and assisting employees who are affected by domestic violence and holding abusers accountable, DHHS seeks to create a supportive workplace environment in which employees feel comfortable discussing domestic violence, sexual assault and stalking with any supervisor or responder, and seeking assistance for domestic violence concerns.

DHHS has a responsibility to model a proactive response to domestic violence, and accepts the obligation to provide special assistance to staff affected by domestic violence, sexual assault and stalking. Physical, emotional and economic security are essential elements of effective support for staff affected by abuse, and an effective workplace response must include strategies to address all of these, including granting appropriate leave from work for reasons related to domestic violence.

DHHS also recognizes that abusers will often target staff affected by abuse at their workplaces, endangering the safety and affecting the productivity of individuals affected by abuse and their co-workers. DHHS will not tolerate any act of domestic violence sexual assault and stalking in the workplace, and will take action to prevent and correct the misuse of State resources in connection with any act of domestic violence. Misuse of State resources in connection with any act of domestic violence will result in discipline up to and including discharge.

#### **VI. PROCEDURE STATEMENT - EDUCATION AND OUTREACH**

- A. This policy will be distributed to all current employees on an annual basis. Information on this policy and domestic violence awareness and services will be part of the DHHS New Employee Orientation and in the new employee orientation package. Each employee will sign a statement acknowledging that the person has received and read the policy. Employees' statements will be retained in personnel files. All employees are expected to become familiar with this policy and to attend domestic violence awareness training as provided by the Department.

- B. Managers, supervisors, and members of the Domestic Violence Response Team will attend specialized training, as provided by the Department, focused on identifying and responding to issues of domestic violence in the workplace.
- C. Continuing opportunities for education and discussion will be provided to employees. Such activities may include but are not limited to: "Lunch and Learn" sessions, Domestic Violence awareness activities in staff meetings, speakers, a lending library and links to appropriate web sites. A list of resources for those affected by domestic violence will be maintained on bulletin boards, where appropriate, break rooms and the Department's intranet. Resources should include but not be limited to: the hotline numbers of local domestic violence projects, the State of Maine Employee Assistance Program ("EAP"), the Maine Coalition to End Domestic Violence (statewide domestic violence coalition), and the phone number and description of resources in the community (court, police, victim advocates, legal assistance, and sexual assault centers). A current list of state-certified batterer's intervention programs will also be maintained.

## VII. PROCEDURE STATEMENT - RESPONSE and ASSISTANCE

- A. **Response to Staff Affected by Domestic Abuse**
  - 1. The Department will offer support and referrals for assistance to those employees who disclose concerns or request assistance. The Department will designate trained persons to whom disclosures may be made. Designated persons include members of the Response Team, supervisors, managers and appropriate human resource personnel.
  - 2. Each employee is encouraged to discuss any concerns about being safe at work with any member of the response team, supervisor, manager, appropriate human resources personnel. Victims are encouraged to disclose the existence of Temporary or Permanent Orders for Protection from Abuse or Harassment to a Responder, particularly where the order includes a provision that the perpetrator is not to have contact with the victim at the victim's place of employment. DHHS Human Resources will develop and implement necessary protocols related to orders. Under no circumstances will these orders be placed in an employee's personnel file.
  - 3. The Department recognizes all persons' rights to privacy, autonomy and the corresponding need to feel safe in the workplace. To the extent that disclosures do not implicate issues of workplace safety and performance, and to the extent permitted by law and this policy, the Department's response will be guided by the expressed wishes of the staff affected by abuse. **If a staff person discloses domestic abuse to a co-worker, that co-worker should refer the staff person to the following:**

- a. Available resources including the domestic violence agencies, and the Employee Assistance Program.
  - b. Other individuals within the Department who may be able to provide assistance to the staff affected by abuse such as human resources personnel, responders, and the staff member's supervisor or manager. See [Appendix D](#) for DHHS Responder List
  - c. Sections of this policy that support safety planning and assistance to staff affected by abuse.
4. Supervisors, managers, responders and human resources personnel are responsible for following the requirements and procedures set forth in this policy. The Department will provide domestic violence training to support these individuals in this role. Supervisors and managers are responsible for communicating that domestic violence is behavior that will not be tolerated in the work place and that the Department will actively provide information and support to employees who are affected by such abuse. A supervisor, manager, responder or appropriate human resources personnel who becomes aware that an employee is affected by domestic violence shall:
  - a. Offer the staff affected by abuse information about appropriate organizations for support, which include the domestic violence projects listed in [Appendix A](#) and that assistance is also available through the Employee Assistance Program. If the employee is a victim of sexual assault or stalking, which is not domestic violence related, the employee should be referred to the sexual assault centers in [Appendix B](#).
  - b. Offer leave to be used for the purposes of accessing domestic violence services, counseling, obtaining medical treatment, attending legal proceedings or carrying out other necessary activities to remedy a crisis caused by domestic violence, sexual assault or stalking. Pursuant to 26 M.R.S.A. subsection 850, (Employment Leave for Victims of Violence) leave must be granted to an employee to deal with the employee's daughter, son, parent or spouse if he/she is a victim of domestic violence, sexual assault or stalking. This leave may be needed to seek medical treatment for self and/or family members, to get a protection order, to participate in counseling, to obtain legal advice and attend legal proceedings, or to obtain necessary services to remedy a crisis caused by domestic violence. A supervisor may not retaliate against an employee a right granted by this law.

- c. Leave benefits may include, as applicable:
  - 1. Sick or vacation leave;
  - 2. Family and Medical Leave Act
  - 3. Unpaid leave; or
  - 4. Catastrophic Leave Bank
- d. Offer to assist the staff affected by abuse in developing a work place safety plan. If the employee affected by abuse and the abuser are both employed by the Department, the work place safety plan should make arrangements to protect the employee affected by abuse from any threat posed by the abuser. The needs of the employee affected by abuse are of primary importance, and isolating the abuser from the employee affected by abuse is preferred if relocation for safety purposes is an issue.

5. Performance Issues:

This policy recognizes that victims of domestic violence may have performance problems such as inability to concentrate, absenteeism, and productivity issues. When an employee confides to a supervisor or manager that job performance issues are caused by domestic violence, referrals and assistance should be offered in accordance with this policy. The Department will offer support and an opportunity to correct the problems. Supervisors may develop a work plan with the employee to assist and support the employee in meeting performance expectations. Nothing in this policy alters the authority of the Department to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave or take other action as it deems appropriate.

In the event that an employee is ultimately unable to maintain employment with the Department as a result of domestic violence, the employee will be provided with information about 26 M.R.S.A.

§§ 1043 and 1193 (Unemployment Compensation Disqualification and Misconduct Clauses) which provides victims with the right to collect unemployment benefits if they leave their employment in order to preserve their own safety, or if they have been terminated because of performance issues stemming from domestic violence.

**B. Response and Requirements to an Employee who is an Abuser**

- 1. The Department encourages employees who are perpetrators to voluntarily seek assistance from any of the resources listed at the end of this policy or the State's confidential Employee Assistance Program.

2. An employee of the Department named as a defendant must immediately disclose (and provide a copy) to the employee's supervisor or manager any order for protection from abuse or harassment relating to domestic violence or any condition of bail or probation applicable to the employee that includes:
  - a. Conditions prohibiting or limiting contact with other employees of the Department.
  - b. Conditions that may interfere with the employee's ability to perform job duties. The Department has no obligation to make allowances for any conditions that may interfere with the employee's ability to perform job duties, and may, at its discretion take appropriate administrative and/or disciplinary action up to and including termination with employees who are subject to such conditions.
  - c. Conditions prohibiting or limiting contact with State employees of other Departments with whom there is a work relationship.

Failure to disclose the above information will result in administrative action, which may result in corrective and disciplinary action, up to and including termination.
3. If an employee is concerned that a co-worker is a perpetrator of domestic violence, sexual assault or stalking, the employee should contact appropriate Human Resource Personnel who will determine the appropriate course of action. The employee shall not confront the co-worker directly.
4. Any employee who is found using any state resources such as workplace telephones, facsimile machines, mail, electronic mail, a state vehicle, state credit card or other employees or other means to commit an act of domestic violence, sexual assault or stalking will be subject to corrective and disciplinary action, up to and including termination.
5. An employee who (1) is known by the Department to have engaged in domestic violence, sexual assault or stalking; or (2) is arrested, convicted or named as a defendant in a protective order as a result of domestic violence, sexual assault or stalking; if such action has a nexus/connection to their employment with the State, may be subjected to corrective action, up to and including termination.

## **VIII. PERSONS COVERED BY THIS POLICY**

Persons covered by this policy include department employees, interns, contract personnel or temporary workers in any workplace location.

## **IX. CONCLUSION**

This Department is committed to providing a supportive and caring work place environment free of domestic violence. The Department will respond to and provide assistance to staff affected by domestic abuse. Staff who are affected by domestic abuse, sexual assault and stalking will be treated with compassion.

## **X. DISTRIBUTION**

All Staff

## **XI. OTHER POLICIES**

The State of Maine and DHHS also has policies covering Equal Employment Opportunity/Affirmative Action, Harassment, and E-mail Usage and Management Procedures for Dealing Threats Against DHHS Staff or Buildings.  
Weapons in DHHS Buildings, Offices and Work Areas

## **XII. ATTACHMENTS**

[Appendix A:](#) Domestic Violence Projects  
[Appendix B:](#) Sexual Assault Crisis Support Centers  
[Appendix C:](#) Maine Batterer Intervention Programs  
[Appendix D:](#) DHHS DV Responder Team  
[www.maine.gov/corrections/VictimServices/BatIntervent.htm](http://www.maine.gov/corrections/VictimServices/BatIntervent.htm)

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Acting Commissioner